UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/505,565	08/24/2004	Ralf Wiedemann	102792-333	3643

27389 7590 12/11/2008

NORRIS, MCLAUGHLIN & MARCUS
875 THIRD AVE
18TH FLOOR
NEW YORK, NY 10022

EXAMINER	
DOUYON, LORNA M	
ART UNIT	PAPER NUMBER
1796	
MAIL DATE	DELIVERY MODE
12/11/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/505,565	WIEDEMANN ET AL.	
	Examiner	Art Unit	
	Lorna M. Douyon	1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 August 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3-9 and 15* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-9 and 15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 19, 2008 has been entered.

2. Claims 1, 3-9 and 15 are pending.

3. The rejection of claims 1, 3-9 and 15 under 35 U.S.C. 112, second paragraph is withdrawn in view of Applicants' amendment.

4. The rejection of claims 1, 3-9 and 15 under 35 U.S.C. 102(e) as anticipated by Becks et al. (WO 02/057402) is withdrawn in view of Applicants' amendment.

5. The provisional rejection of claim 1 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 6 of copending Application No. 10/505,624 (now US Patent 7,407,923) is withdrawn in view of Applicants' amendment, and the amendment in the copending application.

Claim Rejections - 35 USC § 103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 1, 3-9 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Becks et al. (WO 02/057402).

Becks teaches a liquid composition comprising a transparent or translucent liquid medium and solid particles contained within the liquid medium wherein the composition is contained within a pouch made from a transparent or translucent water-soluble material, so that the individual solid particles are visible from outside of the pouch, the solid particles having a mean geometric diameter of between 0.5mm and 12 mm (see abstract). One of the advantages of the invention of Becks is that the solid particles do not necessarily need to be stably suspended in the liquid medium, but rather the solid particles may sink or float in the liquid medium (see page 2, last paragraph). The liquid composition can have any viscosity and the viscosity may be controlled, if desired, by using various viscosity modifiers (see page 7, lines 10-14). The compositions are typically laundry or dishwashing compositions (see page 7, lines 19-21). In one preferred embodiment, the solid particle is a particulate bleach or bleach activator (see page 21, lines 17-18), or an enzyme encapsulate (see page 22, lines 27-28). In Example 2b, Becks teaches a low moisture liquid detergent composition with one 10 mm sphere/capsule a pouch of soluble polyvinyl alcohol film, wherein the spherical particle of sample b is less dense than the detergent and float in the detergent in the

pouch and rapidly dissolve when the pouch is added to the wash (see entire page 26). Becks, however, fails to specifically disclose one particle of bleach, bleach activator or enzyme floating in the detergent in the pouch.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have prepared a packaged detergent wherein one particle of bleach, bleach activator or enzyme is floating in the detergent because Becks teaches that bleach, bleach activator or enzyme are preferred solids on page 21, lines 17-18 and page 22, lines 27-28, and on page 2, last paragraph, such solids may float, and on page 26, last paragraph and page 28, line 3, only one solid is used. Hence, in view of the above teachings, a person of ordinary skill in the art would have been motivated to prepare on solid of bleach, bleach activator or enzyme which floats in the detergent.

8. Claims 1, 3-8 stand rejected under 35 U.S.C. 103(a) as being obvious over Pfeiffer et al. (US Patent No. 6,492,312), hereinafter "Pfeiffer".

Pfeiffer teaches a water soluble sachet comprising a detergent composition having a discrete particle that enhances cleaning in a dishwashing machine (underlining supplied, see abstract; col. 1, lines 7-10), wherein the dishwashing composition is a gel which comprises discrete particles having an approximate diameter from about 100 to about 5000 microns (5mm) (see col. 2, lines 60-63) and having a viscosity from about 100 to about 45,000 cps (about 100 to about 45,000 mPas) (see col. 4, lines 56-61). The discrete particles may be a wax-encapsulated bleach (see col. 9, line 17). Suitable materials for the water soluble sachet include polyvinyl alcohol (see col. 3, lines 48-65).

Pfeiffer, however, fails to disclose the density of the solid particle, and one solid floating on the outer surface of the liquid.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to reasonably expect the density of the discrete particle, for example, the wax-encapsulated bleach to have a density lower than the density of the dishwashing composition and to have a discrete wax-encapsulated bleach particle to float on the outer surface of the liquid, considering that the bleach is encapsulated in wax, which is lighter, and would have been expected to float in the composition.

9. Claim 9 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Pfeiffer as applied to the above claims, and further in view of Dasque et al. (WO 01/60966), hereinafter "Dasque".

Pfeiffer teaches the features as described above. Pfeiffer, however, fails to disclose the water soluble sachet comprising a detergent composition for use in a laundry washing machine.

Dasque, an analogous art, teaches that a detergent composition in a water-soluble pouch comprising similar ingredients (see abstract) are prepared as laundry or dishwashing compositions (see page 21, lines 29-32), hence useful for laundry or dishwashing machines.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the product of Pfeiffer not only for dishwashing purposes but

also for laundry washing because it is known from Dasque that a similar product is useful for both laundry and dishwashing applications.

Response to Arguments

10. Applicants' arguments filed August 19, 2008 have been fully considered but they are not persuasive.

With respect to the anticipation rejection based upon Becks, Applicants argue that "*Becks teaches in Example 2 on page 26 a solid fragrance sphere floating on top of a liquid. Contrarily, the solid in the presently claimed invention is decidedly not a fragrance, but is one of an enzyme, bleach, bleach activator or non-ionic surfactant. And although Becks does teach that a solid that can comprise enzymes, bleach, bleach activators and non-ionic surfactants, there is simply no disclosure of any of these components taught in an embodiment containing only one solid floating on top of a liquid, as arranged in the presently claim. Therefore, because Becks does not teach all of the limitations as arranged in the present claims, the applicants submit that Becks does not anticipate the present claims, and respectfully request that the Examiner withdraw the present rejection.*"

The anticipation rejection is withdrawn, however, an obviousness rejection was made for the reasons stated in paragraph 7 above.

With respect to the obviousness rejection based upon Pfeiffer, Applicants argue:

"A *prima facie* case of obviousness cannot be established over Pfeiffer and Pfeiffer in view of Dasque because the differences between the presently claimed invention and Pfeiffer are outside the level of ordinary skill in the art. Pfeiffer teaches

multiple particles distributed throughout the liquid, whereas the presently claimed invention is directed to only one solid floating on the outer surface of the liquid. The present invention demonstrates an advancement to the art because a solid in a package has lower density than one having a higher density in that the lower density solid is released in 2 minutes but it takes 4.5 minutes for a higher density solid to release in the wash liquor. (See, specification at page 27, line 12 to page 29, line 12 (¶¶ 0099-0107 in the published application US 2005/0153861.)"

The Examiner respectfully disagrees with the above arguments because Pfeiffer teaches, in the abstract and col. 1, lines 7-10, a water soluble sachet comprising a detergent composition having a discrete particle that enhances cleaning in a dishwashing machine. As stated above, it would have been obvious to one of ordinary skill in the art at the time the invention was made to reasonably expect the discrete wax-encapsulated bleach particle of Pfeiffer whose particle size overlaps those recited to float on top of the liquid composition, considering that the bleach is encapsulated in wax, which is lighter, and would have been expected to float in the composition.

Applicants also argue that: a packaged detergent composition having one solid floating on the outer surface of the liquid would not have been predictable based on the disclosure of Pfeiffer, and thus, one skilled in the art, at the time of the invention, could not predict that including one solid in the liquid composition with a density such that it floats on the outer surface of the liquid would favorably decrease the release time of the solid into the wash liquor. The examples mentioned above demonstrate this. The claims

have been amended to recite that the packaged detergent composition has only one solid which floats on the outer surface of the liquid.

The response above applies here as well. In addition, the examples in the specification (see pages 27-29) have been carefully considered, however, they are not commensurate in scope with the present claim 1. The viscosity of the liquid composition in the cited examples were not mentioned, and the showing is only true for the specific components and particle sizes in the examples.

With respect to the rejection of claim 9 based upon Pfeiffer in view of Dasque, Applicants argue that this claim is dependent from claim 1, and as discussed above, claim 1 is not obvious over Pfeiffer, and such a method of washing laundry is not obvious over Pfeiffer in view of Dasque.

The above response to Pfeiffer applies here as well. Hence, the combination of Pfeiffer with Dasque is maintained.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to 3 whose telephone number is 571-272-1313. The examiner can normally be reached on Mondays-Fridays 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Lorna M Douyon/
Primary Examiner, Art Unit 1796